



**Billing Code: 4510.43-P**

## **DEPARTMENT OF LABOR**

### **Mine Safety and Health Administration**

#### **Petitions for Modification of Application of Existing Mandatory Safety Standards**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

**DATES:** All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

**ADDRESSES:** You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. **Electronic Mail:** [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.

2. Facsimile: 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: George F. Triebsch, Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21<sup>st</sup> floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** Barbara Barron, Office of Standards, Regulations and Variances at 202-693-9447 (Voice), [barron.barbara@dol.gov](mailto:barron.barbara@dol.gov) (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

(1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

(2) That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

## **II. Petitions for Modification**

Docket No: M-2013-029-C.

Petitioner: Brooks Run Mining Company, LLC, 208 Business Street, Beckley, West Virginia 25801.

Mine: Cucumber Mine, MSHA I.D. No. 46-09066, located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.507-1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of achieving the results of the existing standard. The petitioner states that:

(1) This petition will apply only to trailing cables supplying three-phase, 575-volt power for permissible pumps.

(2) The maximum length of the 575-volt trailing cables supplying power for permissible pumps will be 4,000 feet.

(3) All circuit breakers used to protect trailing cables exceeding the trailing cables approval length or Table 9 in Appendix I to Subpart D (specifications for portable cables longer than 500 feet) of 30 CFR part 18 will have an instantaneous trip unit calibrated to trip at 70 percent of phase-to-phase short-circuit current. The trip setting of these circuit breakers will be sealed or locked, and the circuit breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the trailing cables. This label will be maintained to remain legible.

(4) In instances where a 70 percent instantaneous set point will not allow a pump to start due to motor inrush, a thermal magnetic breaker will be no greater than 70 percent of the available short-circuit current and the instantaneous setting will be adjusted one setting above the motor inrush trip point. This setting will also be sealed or locked.

(5) Replacement instantaneous trip units used to protect pump trailing cables exceeding required lengths of cables will be calibrated to trip at 70 percent of the available phase-to-phase short-circuit current. This setting will be sealed or locked.

(6) Permanent warning labels will be installed and maintained on the covers of the power center to identify the location of each sealed or locked short-circuit protection device. These labels are intended to warn miners not to change or alter these short-circuit settings.

(7) All pump installations with cable lengths that are specified in Table 9 in Appendix I to 30 CFR part 18 subpart D will have short-circuit surveys conducted and paragraphs (1) –(5) will be implemented. A copy of each pump short-circuit survey will be available at the mine site for inspection.

(8) The alternative method will not be implemented until miners who have been designated to examine the integrity of seals or locks, verify the short-circuit setting, and follow proper procedures for examining trailing cables for defects and damage have received the elements of training in paragraph (9).

(9) Within 60 days after this petition is granted, proposed revisions for approved 30 CFR part 48 training plans will be submitted to the District. The proposed training will include the following elements:

(a) Training in mining methods and operating procedures that will protect the trailing cables against damage.

(b) Training in the proper procedures for examining the trailing cables to ensure the cables are in a safe operating condition.

(c) Training in hazards of setting the instantaneous circuit breakers too high to adequately protect the trailing cables.

(d) Training in how to verify the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained.

The petitioner further states that the procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training cables will apply.

The petitioner asserts that the proposed alternative method will guarantee no less than the same measure of protection to the miners as would be provided by the existing standard.

Docket No: M-2013-030-C.

Petitioner: Newtown Energy, Inc., P.O. Box 189, Comfort, West Virginia 25049.

Mine: Peerless Rachel Mine, MSHA I.D. No. 46-09258, 4449 Left Fork of Joe's Creek, Comfort, West Virginia, located in Boone County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with respect to oil and gas wells.

1. The petitioner proposes, prior to mining through any oil or gas well at its Peerless Rachel Mine, to provide the District Manager (DM) a declaration stating that all mandatory procedures for cleaning out, preparing, and plugging each gas or oil well have been completed. The declaration will be accompanied by down-hole logs.

2. The techniques and procedures in this petition are limited to oil and gas wells that have a maximum depth of 5,000 feet or less.

- a. The petitioner proposes to use the following procedures when cleaning out and preparing oil and gas wells prior to plugging or replugging:

- (1) Clean out the well from the surface to at least 200 feet below the base of the lowest mineable coal seam. Remove material from the entire diameter of the well, wall to wall, to the extent feasible and practicable.

(2) Remove all of the casing in the well or, if it is not possible to remove all of the casing, fill the annulus between the casings and between the casings and the well walls with expanding cement (minimum 0.5 percent expansion on setting) and ensure that these areas contain no voids. If the casing cannot be removed, cut or mill it at all mineable coal seam levels and perforate or rip it at least every 50 feet from at least 200 feet below the base of the lowest mineable coal seam up to 100 feet above the uppermost mineable coal seam. When multiple casing and tubing strings are present in the coal horizon(s), perforate or rip any casing that remains and fill with expanding cement. Keep an acceptable casing bond log for each casing and tubing string used in lieu of ripping or perforating multiple strings.

(3) Place a mechanical bridge plug in the well, if a cleaned-out well emits excessive amounts of gas. Place the mechanical bridge plug in a competent stratum at least 200 feet below the base of the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum.

(4) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for a bridge plug. In addition, maintain a journal describing the length and type of each material used to plug the well; the length of casings removed, perforated or ripped, or left in place; any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well.

(5) Properly place mechanical bridge plugs to isolate the hydrocarbon-producing stratum from the expanding cement plug, if the upper-most hydrocarbon-producing stratum is within 300 feet of the base of the lowest mineable coal seam. Nevertheless, place a minimum of 200 feet of expanding cement below the lowest mineable coal seam.

b. The petitioner proposes to use the following procedures for plugging or replugging oil or gas wells to the surface:

(1) Pump expanding cement slurry down the well to form a plug that runs from at least 200 feet below the base of the lowest mineable coal seam to the surface. Place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Portland cement or a lightweight cement mixture may be used to fill the area from 100 feet above the top of the uppermost mineable coal seam. A gel that supports the wall of the borehole and increases the density of the expanding cement may be used to provide the placement pressure.

(2) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the American Petroleum Institute (API) well number either engraved or welded on the casing. When the hole cannot be marked with a physical monument (e.g., prime farmland), use high-resolution GPS coordinates (one-half meter resolution) to locate the hole.

c. The petitioner proposes to use the following procedures for plugging or replugging oil and gas wells for subsequent use as degasification boreholes:

(1) Set a cement plug in the well by pumping expanding cement slurry down the tubing to provide at least 200 feet of expanding cement below the lowest mineable coal seam. Place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Extend the top of the expanding cement at least 30 feet above the top of the coal seam being mined.

(2) Securely grout a suitable casing into the bedrock of the upper portion of the degasification well to protect it. The remainder of this well may be cased or uncased.

(3) Cement the annulus between the degasification casing and the borehole wall from a point immediately above the slots or perforations in the pipe to the surface.

(4) Clean out the degasification casing to its total length.

(5) Fit the top of the degasification casing with a wellhead, equipped as required by the DM in the approved ventilation plan. Such equipment may include check valves, shut-in valves, sampling ports, flame arrestor equipment, and security fencing.

(6) After the area of the coal mine that is degassed by a well is sealed or the coal mine is abandoned, seal the degas holes using the following procedures:

(i) Insert a tube to the bottom of the drill hole or, if not possible, to at least 100 feet above the coal seam. Remove any blockage to ensure that the tube is inserted to this depth.

(ii) Set a cement plug in the well by pumping Portland cement or a lightweight cement mixture down the tubing until the well is filled to the surface.

(iii) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the API well number engraved or welded on the casing.

d. The petitioner proposes to use the following procedures for preparing and plugging or replugging oil or gas wells that cannot be completely cleaned out:

(1) Drill a hole adjacent and parallel to the well to a depth of at least 200 feet below the lowest mineable coal seam.

(2) Locate any casing that may remain in the well using a geophysical sensing device.

(3) If the well contains casings, drill into the well from the parallel hole and perforate or rip all casings at intervals of at least 5 feet from 10 feet below the coal seam to 10 feet above the coal seam. Beyond that distance, perforate or rip all casings at least every 50 feet from at least 200 feet below the base of the lowest mineable coal seam up to 100 feet above the seam being mined. Fill the annulus between the casings and between the casings and the well wall with expanding cement (minimum of 0.5% expansion on setting), and ensure that these areas contain no voids. When multiple casing and tubing strings are present in the coal horizons, rip or perforate any casing that remains and fill

with expanding cement. Provide an acceptable casing bond log for each casing and tubing used in lieu of ripping or perforating multiple strings.

(4) Use a horizontal hydraulic fracturing technique to intercept the original well where there is sufficient casing in the well to allow use of the method outlined in subparagraph (3) above. Fracture the original well in at least six places from at least 200 feet below the base of the lowest mineable coal seam to a point at least 50 feet above the seam being mined at intervals to be agreed on by the petitioner and the DM after considering the geological strata and the pressure within the well. Pump expanding cement into the fractured well in sufficient quantities and in a manner that fills all intercepted voids.

(5) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for the bridge plug. Maintain a journal describing the length and type of each material used to plug the well; length of casing(s) removed, perforated, ripped, or left in place; and other pertinent information concerning sealing the well.

(6) After plugging the well, plug the open portions of both holes from the bottom to the surface with Portland cement or a lightweight cement mixture.

(7) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the

alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level.

e. The petitioner proposes to use the following procedures after approval has been granted by the DM to mine through a plugged or replugged well:

(1) Prior to cutting-through a plugged well, notify the DM or designee, representative of the miners, and the appropriate State agency in sufficient time for them to have a representative present.

(2) Install drilage spads at the last open crosscut near the place to be mined to ensure intersection of the well when mining through wells using continuous mining equipment. The drilage spads will not be more than 50 feet from the well. Install distance markers along the headgate on 5-foot centers for 20 feet in advance of the well when using longwall-mining methods.

(3) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mine-through (when either the conventional or continuous mining method is used), will be available and operable during each well mine-through. Locate the fire hose in the last open crosscut of the entry or room. Maintain the water line to the belt conveyor tailpiece along with a sufficient amount of fire hose to reach the farthest point of penetration on the section.

(4) Keep available at the last open crosscut, a supply of roof support and ventilation materials sufficient to ventilate and support around the well on cut-through. In addition, keep emergency plugs available in the immediate area of the cut-through.

(5) Maintain the quantity of air required by the approved mine ventilation plan for both continuous and longwall mining.

(6) Check equipment for permissibility if it will be in by the last open crosscut during mine-through and service it on the shift prior to mining through the well.

(7) Calibrate the methane monitors on the longwall, continuous mining machine, or cutting machine and loading machine on the shift prior to mining through the well.

(8) When mining is in progress, test methane levels with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 20 feet of the well until the well is intersected and immediately prior to mining through it or from the time that mining with longwall mining equipment is within 10 feet of the well. No individual is allowed on the return side during the actual cutting process until the mine-through has been completed and the area examined and declared safe.

(9) Keep the working place free from accumulations of coal dust and coal spillages, and place rock dust on the roof, rib, and floor to within 20 feet of the face when mining through the well when using continuous or conventional mining methods. Conduct rock dusting on longwall sections on the roof, rib, and floor up to both the headgate and tailgate gob.

(10) Deenergize all equipment when the wellbore is intersected and thoroughly examine the place and determine it safe before resuming mining. No open flame is permitted in the area until adequate ventilation has been established around the wellbore.

(11) In rare instances, torches may be used for inadequately or inaccurately cut or milled casings at the coal seam level. No open flame is permitted in the area until adequate ventilation has been established around the wellbore and methane levels are less than 1.0 percent in all areas that will be exposed to flames and sparks from the torch. Apply a thick layer of rock dust to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to any use of torches.

(12) After a well has been intersected and the working place determined safe, continue mining inby the well at a distance sufficient to permit adequate ventilation around the area of the wellbore.

(13) No person will be permitted in the area of the cut-through operation except those actually engaged in the mining operation, mine management, representative of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(14) A certified official will directly supervise the cut-through operation and only the certified official in charge will issue instructions concerning the cut-through operation.

(15) Locate non-sparking (brass) tools on the working section in the event they are needed to expose and examine cased wells.

(16) Alert all personnel in the mine to the planned intersection of the well prior to their going underground if the planned intersection is to occur during their shift. Repeat this warning for all shifts until the well has been mined through. Mining may be conducted in other working sections during the intersection of the well.

(17) The responsible person required in 30 CFR 75.1501 will be responsible for well intersection emergencies. The responsible person will review the well intersection procedures prior to any planned intersection.

Within 60 days after this petition becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved mine emergency evacuation and firefighting plan required in 30 CFR 75.1501. The petitioner will revise the plans to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in this revised plan within 30 days of the DM's approval of the revised evacuation plan. Such training may be done in a weekly safety meeting or other type of appropriate setting.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Docket No: M-2013-031-C.

Petitioner: Oak Grove Resources, LLC, 8360 Taylor's Ferry Rd., Hueytown, Alabama 35023.

Mine: Oak Grove Mine, MSHA I.D. No. 01-00851, located in Jefferson County, Alabama.

Regulation Affected: 30 CFR 75.507 (Power connection points).

Modification Request: The petitioner requests a modification of the existing standard to permit nonpermissible pumps to be used in boreholes in areas of the Oak Grove Mine where water has accumulated and that are not on intake air. The petitioner states that:

(1) Nonpermissible pumps will be located within the boreholes and the electrical components of the pump will always be separated from the mine atmosphere. The pump electric motors will be under water continuously.

(2) The three-phase 480, 2,400, or 4,160 voltage alternating-current electric power circuits for the pump(s) will be designed and installed to:

(a) Contain either a direct or a derived neutral that will be grounded through a suitable resistor at the source transformer or power center. A grounding circuit originating at the grounded side of the grounding resistor must extend along with the power conductors and serve as the grounding conductor for the frame of the pump(s) and all associated electric equipment that may be supplied power from this circuit. The borehole casing will be bonded to the system grounding medium.

(b) Contain a grounding resistor that limits the ground-fault current to not more than 6.5 amperes. The grounding resistor must be rated for the maximum fault current available and must be insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(3) The following protections for the pump power circuits will be provided by a suitable circuit interrupting device of adequate interrupting capacity with devices to provide protection against undervoltage, grounded phase, short circuit, and overload.

(a) The undervoltage protection device will operate on a loss of voltage to prevent automatic restarting of the equipment.

(b) The grounded phase protection device will be set not to exceed 50 percent of the current rating of the neutral grounding resistor.

(c) The short circuit protection device will not be set to exceed the required short circuit protection for the power cable or 75 percent of the minimum available phase-to-phase short circuit current, whichever is less.

(d) Each power circuit will contain a disconnecting device located on the surface and installed in conjunction with the circuit breakers to provide visual evidence that the power is disconnected.

(e) The disconnecting device(s) will include a means to visually determine if the pump power circuit(s) are disconnected and will be provided with a means to lock, tag-out, and ground the system(s).

(f) The disconnecting device(s) will be designed to prevent entry unless the disconnect handle is in the “off” position and the circuit is grounded.

(g) The disconnecting device(s) will be clearly identified and provided with warning signs stating, “Danger. Do not enter unless the circuit is opened, locked, tagged-out, and grounded.”

(4) The three-phase alternating current system will be provided with a low resistance grounding medium for the grounding of the lightning/surge arrestors for the

high-voltage pump power circuit(s) that is separated from the neutral grounding medium by a distance of not less than 25 feet.

(5) The electric control circuit(s) for the pumps will meet the following requirements:

(a) The control circuit will be equipped with a probe circuit that determines a high and low water level.

(b) The low water probe will be located not less than 30 feet above the pump inlet and motor and electrical connections of the pump(s). When the water level reaches the low water probe, the pump(s) will cease operation and the pump(s) will not start in either the manual or the automatic mode.

(c) When the water level reaches the high water probe, the pump will start operation.

(d) The high and low water probes must consist of redundant electronic pressure transducers that are suitable for submersible pump control applications.

(e) All probe circuits will be protected by MSHA-approved intrinsically safe barriers.

(f) The grounded-phase protective circuit for pump(s) will be able to be tested by injecting a test current through the grounded phase current transformer.

(g) A remote control and monitoring system can be used with the pump system for condition monitoring and for remote startup and shutdown control of the pumps. The remote control and monitoring system will not allow reset of the pump power system

when fault conditions (e.g., grounded phase, short circuit, or overload) exist on the system.

(h) Splices and connections made in submersible pump cables will be made in a workmanlike manner and will meet the requirements of 30 CFR 75.604.

(6) The surface pump control and power circuit(s) will be examined as required by 30 CFR 77.502.

(7) The power cable to the submersible pump motor(s) will be suitable for this application, have a current carrying capacity not less than 125 percent of the full load motor current of the submersible pump motor, and have an outer jacket suitable for a wet location. The power cable must be supported at the entrance to the borehole and throughout its length. The power pump cable will be secured, and with clamps, spaced approximately 25 feet apart, affixed to the discharge pipe casing.

(8) The pump installations will comply with all applicable 30 CFR requirements.

Within 60 days after this petition is granted, the petitioner will submit to the DM proposed revisions for their proposed part 48 training plan. These revisions will specify task training for all qualified mine electricians who perform electric work, monthly electrical examinations as required by 30 CFR 77.502, refresher training regarding the alternative method outlined in this petition, and the terms and conditions stated in the Proposed Decision and Order. The procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply.

The petitioner asserts that use of the proposed system described in this petition would prevent exposure of miners to unnecessary hazards, thereby increasing the measure of protection to the miners. Such submersible pumps have performed readily and are superior to the underground pumping systems that they replaced.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners as would be provided by the existing standard.

Docket No: M-2013-032-C.

Petitioner: Wolf Run Mining Company, Rt. 3, Box 146, Philippi, West Virginia 26416.

Mine: Sentinel Mine, MSHA I.D. No. 46-04168, located in Barbour County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine

plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transit distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following:

- (i) Checking the instrument for any physical damage and the integrity of the case;
- (ii) Removing the battery and inspecting for corrosion;
- (iii) Inspecting the contact points to ensure a secure connection to the battery;
- (iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

- (v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket No: M-2013-033-C.

Petitioner: Wolf Run Mining Company, Rt. 3, Box 146, Philippi, West Virginia 26416.

Mine: Sentinel Mine, MSHA I.D. No. 46-04168, located in Barbour County, West Virginia.

Regulation Affected: 30 CFR 75.507-1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment in return airways, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and

efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used in return airways. Such nonpermissible surveying equipment includes, but is not limited to, portable battery-operated total station surveying equipment, mine transit distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in return airways.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn out of the return airways.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as required in 30 CFR 75.320.

(g) Batteries in the surveying equipment will be changed out or charged in fresh air out of the return.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the DM. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket No: M-2013-034-C.

Petitioner: Wolf Run Mining Company, Rt. 3, Box 146, Philippi, West Virginia 26416.

Mine: Sentinel Mine, MSHA I.D. No. 46-04168, located in Barbour County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment within 150 feet of pillar workings, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372, 75.1002(a), and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines, it is necessary to determine the exact location and extent of the mine workings.

(2) Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used within 150 feet of pillar workings. Such nonpermissible surveying equipment includes, but is not limited to, portable battery-operated total station surveying equipment, mine transit distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

- (i) Checking the instrument for any physical damage and the integrity of the case;
  - (ii) Removing the battery and inspecting for corrosion;
  - (iii) Inspecting the contact points to ensure a secure connection to the battery;
  - (iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and
  - (v) Checking the battery compartment cover to ensure that it is securely fastened.
- (c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment within 150 feet of pillar workings.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn further than 150 feet from pillar workings.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as required in 30 CFR 75.320.

(g) Batteries in the surveying equipment will be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to

the DM. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Dated: August 9, 2013

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George F. Triebsch  
Director  
Office of Standards, Regulations and Variances

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